

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 59

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO BIRTH CERTIFICATES AND ADOPTION RECORDS; AMENDING SECTION
2 39-258, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING CERTAIN ADOP-
3 TIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-259, IDAHO
4 CODE, TO ESTABLISH PROVISIONS REGARDING CERTAIN ADOPTIONS AND TO MAKE
5 TECHNICAL CORRECTIONS; AND AMENDING SECTION 39-259A, IDAHO CODE, TO
6 PROVIDE CORRECT CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS.
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Section 39-258, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 39-258. ADOPTION OF PERSONS BORN IN IDAHO -- NEW BIRTH CERTIFICATE IS-
12 SUED TO REPLACE ORIGINAL CERTIFICATE -- PROCEDURE -- ADOPTION PROCEEDINGS
13 NOT OPEN TO INSPECTION WITH CERTAIN EXCEPTIONS -- DUTIES OF THE CLERKS OF
14 COURTS ISSUING ADOPTION DECREES -- DUTIES OF STATE REGISTRAR OF VITAL STA-
15 TISTICS. (a~~1~~) Whenever a final decree of adoption, issued by an Idaho court,
16 declares a person born in Idaho to be adopted by someone other than his or her
17 natural parents, the court shall require the preparation of a report (denom-
18 inated as a certificate in accordance with Idaho court rules) of adoption on
19 a form prescribed and furnished by the state registrar. The report shall in-
20 clude such facts as are necessary to locate and identify the certificate of
21 birth of the person adopted; shall provide information necessary to estab-
22 lish a new certificate of birth for the person adopted; and shall identify
23 the order of adoption and be certified by the clerk of the court.

24 (b~~2~~) Information necessary to prepare the report of adoption shall be
25 furnished by each petitioner for adoption or the petitioner's attorney. The
26 provision of such information shall be prerequisite to the issuance of a fi-
27 nal decree in the matter of the court.

28 (e~~3~~) The report of adoption shall, within fifteen (15) days after be-
29 coming final, be recorded by the clerk of the court with the vital statistics
30 unit in the state department of health and welfare.

31 (d~~4~~) If a court of some other state issued a decree or report of adoption
32 of a person actually born in Idaho, the certified copy or report may be sim-
33 ilarly filed by the person involved or by the adoptive parents. Failure to
34 file certified copies or reports of said decrees within said period of time,
35 however, shall not bar issuance of a new birth certificate as hereinafter
36 provided. This copy of said decree or report shall be filed with and remain a
37 part of the records of the vital statistics unit.

38 (e~~5~~) Upon receipt by the vital statistics unit of the certified report
39 of adoption, a new certificate of birth shall be issued (but only in cases
40 where such person's birth is already recorded with the vital statistics
41 unit) bearing among other things the name of the person adopted, as shown
42 in the report of adoption, except that a new certificate of birth shall not

1 be established if so requested by the court decreeing the adoption, the
2 adoptive parents, or the adopted person. No such birth certificate shall
3 have reference to the adoption of said person. Such birth certificate shall
4 supplant and constitute a replacement of any birth certificate previously
5 issued for said person and shall be the only birth certificate open to public
6 inspection.

7 Provided however, upon good cause shown and the affidavit of the adop-
8 tive parents that a diligent search has been made, but no certificate of
9 birth for the adoptive child can be located, the magistrate judge may order
10 the adoptive child examined, at the expense of the adoptive parents, by a
11 doctor of medicine licensed by the state of Idaho. The examination will be
12 conducted pursuant to rules promulgated by the state board of health and wel-
13 fare for the purpose of determining those matters required for the issuance
14 of an original birth certificate. Upon the examination of the doctor made
15 pursuant to the rules of the state board of health and welfare, the court may
16 order the vital statistics unit to issue an original birth certificate for
17 the adoptive child based upon those facts determined by the examination and
18 included in the court's order. In such case, a certified copy of the court
19 order shall be provided to the vital statistics unit.

20 (~~¶~~6) In respect to form and nature of contents, such a new birth cer-
21 tificate shall be identical with a birth certificate issued to natural par-
22 ents for the birth of a child, except that the adoptive parents shall be shown
23 as parents and the adopted person shall have the name assigned by the de-
24 cree of adoption as shown on the report of adoption. In a case where a single
25 person adopts another person, any new birth certificate may designate the
26 adopting parent as adoptive.

27 (~~¶~~7) Whenever an adoption decree is amended, annulled, or rescinded,
28 the clerk of the court shall forward a certified copy of the amendment, an-
29 nulment, or rescindment to the vital statistics unit in accordance with the
30 time provisions in subsection (~~¶~~3) of this section. Unless otherwise di-
31 rected by the court, the vital statistics unit shall amend the certificate of
32 birth upon receipt of a certified copy of an amended decree of adoption. Upon
33 receipt of a certified copy of a decree of annulment or rescindment of adop-
34 tion, the original certificate of birth shall be restored to its place in the
35 files and the new certificate and evidence shall not be subject to inspection
36 except upon order of a court of record of this state.

37 (~~¶~~8) All records and information specified in this section, other than
38 a new birth certificate issued hereunder, and all records, files, and infor-
39 mation of any court in this state relating to adoption proceedings, shall not
40 be open to inspection except as provided in section 39-259A, Idaho Code, or
41 upon the order of a court of record of this state; provided however, that the
42 provisions of section 16-1616, Idaho Code, to the contrary notwithstanding,
43 any magistrate judge may furnish a certified copy of a decree of adoption to
44 any duly authorized agency of the United States or the state of Idaho without
45 procuring any prior court order therefor.

46 (9) For adoptions that occur on or after July 1, 2021, the provisions of
47 this section shall apply, except that:

48 (a) The natural or adoptive parentage of each parent shall be demon-
49 strated as determined by the registrar on the face of a new birth cer-
50 tificate described in subsection (6) of this section; and

1 (b) A copy of the original birth certificate, all medical and demo-
2 graphic information contained in the sealed file, and the report of
3 adoption must be provided upon the signed request of the adoptee who is
4 named on the birth certificate or such adoptee's legal representative,
5 provided that the adoptee must be aged eighteen (18) years or older, and
6 provided further that the bureau of vital statistics is not obligated
7 to provide court records to such adoptee under the provisions of this
8 paragraph.

9 SECTION 2. That Section 39-259, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 39-259. ADOPTION OF PERSONS BORN IN FOREIGN COUNTRIES. (a~~1~~) When it
12 appears from a final decree of adoption issued by an Idaho court that a per-
13 son born in a foreign country has been adopted in Idaho by someone other than
14 the person's natural parents, the court shall require the preparation of a
15 report (denominated as a certificate in accordance with Idaho court rules)
16 of adoption on a form prescribed and furnished by the state registrar. The
17 report shall contain evidence from sources determined to be reliable by the
18 court as to the true or probable date and place of birth and parentage of such
19 person; shall provide information necessary to establish a new certificate
20 of birth for the person adopted; and shall identify the order of adoption and
21 be certified by the clerk of the court. Upon receipt by the state registrar
22 of vital statistics of the report of adoption, the state registrar of vital
23 statistics shall make and file a new birth certificate for the child when re-
24 quested to do so by the court decreeing the adoption, the adoptive parents,
25 or the adopted person. The new birth certificate shall show the true or prob-
26 able foreign country (and city, town, village, or other local designation,
27 if known) of birth and the true or probable date of birth as established by
28 the court and shown on the court report of adoption, the child's new name and
29 parentage as stated in the report of adoption, and any other necessary facts
30 as required by the state registrar. This birth certificate shall not be evi-
31 dence of United States citizenship. The form and content of the certificate
32 of foreign birth shall be established by the director.

33 (b~~2~~) All records and information specified in this section, other than
34 a new birth certificate issued hereunder, and all records, files, and infor-
35 mation of any court in this state relating to adoption proceedings, shall not
36 be open to inspection except as provided in section 39-259A, Idaho Code, or
37 upon the order of a court of record of this state; provided however, that the
38 provisions of section 16-1616, Idaho Code, to the contrary notwithstanding,
39 any probate court, or the judge thereof, may furnish a certified copy of a
40 decree of adoption to any duly authorized agency of the United States or the
41 state of Idaho without procuring any prior court order therefor.

42 (e~~3~~) The report of adoption shall, within fifteen (15) days after be-
43 coming final, be recorded by the clerk of the court with the vital statistics
44 unit in the state department of health and welfare.

45 (d~~4~~) Whenever an adoption decree is amended, annulled, or rescinded,
46 the clerk of the court shall forward a certified copy of the amendment, an-
47 nulment, or rescindment to the vital statistics unit in accordance with the
48 time provisions in subsection (e~~3~~) of this section. Unless otherwise di-
49 rected by the court, the vital statistics unit shall amend the certificate of

1 birth upon receipt of a certified copy of an amended decree of adoption. Upon
 2 receipt of a certified copy of a decree of annulment or rescindment of adop-
 3 tion, the Idaho birth certificate shall be removed from the file and along
 4 with the decree of annulment or rescindment shall be placed in the sealed
 5 file for that person. Such sealed file shall not be subject to inspection ex-
 6 cept upon order of a court of record of this state.

7 (5) For adoptions that occur on or after July 1, 2021, the provisions of
 8 this section shall apply, except that:

9 (a) The natural or adoptive parentage of each parent shall be demon-
 10 strated as determined by the registrar on the face of a new birth cer-
 11 tificate described in subsection (1) of this section; and

12 (b) A copy of the foreign birth certificate, if available, all medi-
 13 cal and demographic information contained in the sealed file, and the
 14 report of adoption must be provided upon signed request by the adoptee
 15 who is named on the birth certificate or such adoptee's legal represen-
 16 tative, provided that the adoptee must be aged eighteen (18) years or
 17 older, and provided further that the bureau of vital statistics is not
 18 obligated to provide court records to such adoptee under the provisions
 19 of this paragraph.

20 SECTION 3. That Section 39-259A, Idaho Code, be, and the same is hereby
 21 amended to read as follows:

22 39-259A. VOLUNTARY ADOPTION REGISTRY FOR PROVIDING LIMITED ACCESS TO
 23 BIRTH INFORMATION OF ADULT ADOPTEEES. (a) The state registrar of vital sta-
 24 tistics shall establish and maintain a confidential list of qualified adult
 25 adoptees who have presented a consent regarding the release of identifying
 26 information about themselves. Any consent by a qualified adult adoptee
 27 shall be accompanied by the adoptee's desired method of notification in the
 28 event that a match occurs; however, the state shall not incur costs of noti-
 29 fication in excess of that part of the fee charged to the applicant for the
 30 purpose of notification. Any consent shall also indicate whether the quali-
 31 fied adult adoptee desires release of his identifying information if a match
 32 occurs after his death. The qualified adult adoptee may revise his consent
 33 with respect to change of address or method of notification. Any name and
 34 accompanying information shall be removed from the list upon the verified
 35 written request of the listed adoptee. The registrar shall maintain a closed
 36 record of such list and accompanying information, except as provided in ac-
 37 cordance with the provisions of this section.

38 (b) The state registrar of vital statistics shall establish and main-
 39 tain a confidential list of qualified ~~birthparents~~ birth parents who have
 40 presented a consent regarding the release of identifying information about
 41 themselves. Any consent by a qualified ~~birthparent~~ birth parent shall be
 42 accompanied by the ~~birthparent's~~ birth parent's desired method of noti-
 43 fication in the event that a match occurs; however, the state shall not
 44 incur costs of notification in excess of that part of the fee charged to the
 45 applicant for the purpose of notification. Any consent shall also indi-
 46 cate whether the qualified ~~birthparent~~ birth parent desires release of his
 47 identifying information if a match occurs after his death. The qualified
 48 ~~birthparent~~ birth parent may revise his consent with respect to change of
 49 address or method of notification. Any name and accompanying information

1 shall be removed from the list upon the verified written request of the
2 listed ~~birthparent~~ birth parent. The registrar shall maintain a closed
3 record of such list and accompanying information, except as provided in ac-
4 cordance with the provisions of section 39-258 (~~h8~~), and subsections (~~b2~~),
5 (~~e3~~) and (~~d4~~) of section 39-259, Idaho Code. Any ~~birthparent~~ birth parent
6 who, in terminating his parental rights, used an alias and this alias is
7 listed in the original sealed birth certificate, may also file a consent with
8 the registry. A ~~birthparent~~ birth parent shall not be matched with a quali-
9 fied adult adoptee without the consent of the other ~~birthparent~~ birth parent
10 unless:

11 (1) There is only one (1) ~~birthparent~~ birth parent listed on the birth
12 certificate; or

13 (2) The other ~~birthparent~~ birth parent is deceased; or

14 (3) The other ~~birthparent~~ birth parent is unable to be located by the
15 department of health and welfare or by a licensed child placement agency
16 designated by the department of health and welfare, after a search,
17 which shall consist, at a minimum, of a certified letter to the other
18 ~~birthparent~~ birth parent at the last known address and a newspaper ad-
19 vertisement made in the county of the last known address; such search
20 to be completed within ninety (90) days and the cost of said search to
21 be fully funded and completed by the ~~birthparent~~ birth parent seeking
22 a match; said search to be in accordance with the rules and regulations
23 promulgated by the department.

24 (c) The state registrar of vital statistics shall establish and
25 maintain a confidential list of qualified adult birth siblings who have
26 presented a consent regarding the release of identifying information about
27 themselves. Any consent by a qualified birth sibling shall be accompanied by
28 the birth sibling's desired method of notification in the event that a match
29 occurs; however, the state shall not incur costs of notification in excess
30 of that part of the fee charged to the applicant for the purpose of notifica-
31 tion. Any consent shall also indicate whether the qualified birth sibling
32 desires release of his identifying information if a match occurs after his
33 death. The qualified birth sibling may revise his consent with respect to
34 change of address or method of notification. Any name and accompanying in-
35 formation shall be removed from the list upon the verified written request
36 of the listed birth sibling. The registrar shall maintain a closed record
37 of such list and accompanying information, except as provided in accordance
38 with the provisions of sections 39-258 (~~h8~~) and 39-259 (~~b2~~), Idaho Code, and
39 this section.

40 (d) The state registrar shall maintain a confidential list of relatives
41 of deceased qualified adult adoptees and relatives of deceased qualified
42 ~~birthparents~~ birth parents who have presented a consent regarding the re-
43 lease of identifying information about themselves. Any consent by such
44 relative shall be accompanied by the person's desired method of notification
45 in the event that a match occurs; however, the state shall not incur costs
46 of notification in excess of that part of the fee charged to the applicant
47 for the purpose of notification. Such relative may revise his consent with
48 respect to change of address or method of notification. Any name and accom-
49 panying information shall be removed from the list upon the verified written
50 request of the listed relative. The state registrar shall maintain a closed

1 record of such list and accompanying information, except as provided in ac-
2 cordance with the provisions of this section.

3 (e) The state registrar shall regularly review the lists provided for
4 in subsections (a), (b), (c), and (d) of this section, and any other non-
5 sealed administrative files or records within the office to determine if
6 there is a match. If it appears that a match has occurred, then and only then
7 is the registrar authorized to proceed to confirm the match through recourse
8 to sealed documents on file in the office of the registrar. When a match is
9 confirmed, the registrar shall notify each party, by its designated method
10 only, prior to an exchange of identifying information. Nothing in this sec-
11 tion shall be construed to allow any state or local governmental department,
12 agency, or institution, or any employee thereof, to solicit any consent for
13 the release of identifying information.

14 (f) When a match is made and both the adopted person and the ~~birthparent~~
15 birth parent or parents, submit to the state registrar a notarized request
16 for a copy of the original birth record of the adopted person, the state reg-
17 istrar shall issue such copy, marked "NOT FOR OFFICIAL USE" at the usual
18 cost of certificate copies.

19 (g) Nothing in this section shall be construed to allow the registrar to
20 issue a copy of the original birth certificate to any registrant, except as
21 provided for in subsection (f) of this section.

22 (h) Except upon order of a court of record of this state and notwith-
23 standing any other provision of law, the information acquired by the reg-
24 istry shall not be disclosed under its public records law, sunshine or free-
25 dom of information legislation, rules, or practice.

26 (i) The initial fee to be charged each person requesting that his name
27 be placed on the list provided for in subsections (a), (b), (c), and (d) of
28 this section, and for the services provided by the registrar in establishing
29 and implementing the registry pursuant to this section, shall be ten dollars
30 (\$10.00). Except for the cost of the search described in subsection (b) (3)
31 of this section, the fee shall cover all direct and indirect costs incurred
32 pursuant to this section. The state board of health and welfare shall annu-
33 ally review the fees and expenses incurred pursuant to this section and, as
34 needed, adjust the fees charged to cover the expenses of administering the
35 provisions of this section.